

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1446 be amended to read as follows:

1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:

3 "SECTION 1. IC 6-6-1.1-201, AS AMENDED BY
4 P.L.192-2002(ss), SECTION 132, IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 201. **(a) Before**
6 **January 1, 2005**, a license tax of eighteen cents (\$0.18) per gallon is
7 imposed on the use of all gasoline used in Indiana, except as otherwise
8 provided by this chapter.

9 **(b) After December 31, 2004, a cents per mile license tax is**
10 **imposed on the use of all gasoline used in Indiana, except as**
11 **otherwise provided by this chapter. The cents per mile license tax**
12 **is converted annually to a per gallon rate as provided in section**
13 **201.2 of this chapter.**

14 **(c) The distributor shall initially pay the tax on the billed gallonage of**
15 **all gasoline the distributor receives in this state, less any deductions**
16 **authorized by this chapter. The distributor shall then add the per gallon**
17 **amount of tax to the selling price of each gallon of gasoline sold in this**
18 **state and collected from the purchaser so that the ultimate consumer**
19 **bears the burden of the tax.**

20 SECTION 2. IC 6-6-1.1-201.2 IS ADDED TO THE INDIANA
21 CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
22 JANUARY 1, 2005]: **Sec. 201.2. (a) As used in this section, "CPI"**
23 **refers to the United States Bureau of Labor Statistics Consumer**

1 **Price Index, all items, all urban consumers, or its successor index.**

2 **(b) As used in this section, "motor fuel" has the meaning set**
 3 **forth in IC 6-6-4.1-1(g).**

4 **(c) The per gallon conversion of the cents per mile license tax**
 5 **imposed under section 201 of this chapter is the amount**
 6 **determined in STEP SEVEN of the following formula, rounded to**
 7 **the nearest one-tenth cent (\$0.001):**

8 **STEP ONE: Divide:**

9 **(A) the Indiana motor vehicle miles of travel (VMT) for**
 10 **the calendar year immediately preceding the calendar**
 11 **year in which the new per gallon conversion rate must be**
 12 **published under subsection (d), as reported by the United**
 13 **States Federal Highway Administration; by**

14 **(B) the certified taxable gallons of motor fuel for the**
 15 **calendar year immediately preceding the calendar year in**
 16 **which the new per gallon conversion rate must be**
 17 **published under subsection (d), as reported by the**
 18 **department;**

19 **to determine the current average miles per gallon (AMPG).**

20 **STEP TWO: Multiply the AMPG calculated under STEP ONE**
 21 **by the cents per mile license tax imposed under section 201**
 22 **of this chapter.**

23 **STEP THREE: For calendar years 2005 and 2006, determine**
 24 **the percentage change between the CPI as last reported for**
 25 **calendar year 2002 and the CPI as last reported for the**
 26 **previous calendar year. For calendar year 2007 and each**
 27 **calendar year thereafter, determine the percentage change**
 28 **between the CPI as last reported for calendar year 2004 and**
 29 **the CPI as last reported for the previous calendar year.**

30 **STEP FOUR: Express the percentage change determined in**
 31 **STEP THREE as a three (3) digit decimal rounded to the**
 32 **nearest thousandth.**

33 **STEP FIVE: Add one (1) to the decimal determined in STEP**
 34 **FOUR.**

35 **STEP SIX: Multiply the STEP TWO amount by the sum**
 36 **determined in STEP FIVE.**

37 **STEP SEVEN: For calendar year 2005, determine the lesser**
 38 **of the STEP SIX amount or eighteen cents (\$0.18). For**
 39 **calendar years beginning after December 31, 2005, determine**
 40 **the greater of:**

41 **(A) the STEP SIX result; or**

42 **(B) the amount determined under this subsection for the**
 43 **previous calendar year.**

(d) Not later than November 1 of each year, the department shall:

(1) publish the annual tax rate in effect for the following calendar year in the Indiana Register; and

(2) widely disseminate information concerning the applicability of the per gallon conversion rate.

(e) Not later than November 1 of each year, the department shall publish in the Indiana Register and widely disseminate information concerning:

(1) the certified taxable gallons of fuel; and

(2) the Indiana vehicle miles of travel;

used in the calculation of the per gallon conversion rate under subsection (c).

SECTION 3. IC 6-6-1.1-502 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 502. (a) Except as provided in subsection (b), at the time of filing each monthly report, each distributor shall pay to the administrator the full amount of tax due under this chapter for the preceding calendar month, computed as follows:

(1) Enter the total number of invoiced gallons of gasoline received during the preceding calendar month.

(2) Subtract the number of gallons for which deductions are provided by sections 701 through 705 of this chapter from the number of gallons entered under subdivision (1).

(3) Subtract the number of gallons reported under section 501(3) of this chapter.

(4) Multiply the number of invoiced gallons remaining after making the computation in subdivisions (2) and (3) by the tax rate prescribed by section 201 of this chapter **(with respect to gasoline received before January 1, 2005) or the tax rate determined under section 201.2 of this chapter (with respect to gasoline received after December 31, 2004)** to compute that part of the gasoline tax to be deposited in the highway, road and street fund under section 802(2) of this chapter or in the motor fuel tax fund under section 802(3) of this chapter.

(5) Multiply the number of gallons subtracted under subdivision (3) by the tax rate prescribed by section 201 of this chapter **(with respect to gasoline received before January 1, 2005) or the tax rate determined under section 201.2 of this chapter (with respect to gasoline received after December 31, 2004)** to compute that part of the gasoline tax to be deposited in the fish and wildlife fund under section 802(1) of this chapter.

(b) If the department determines that a distributor's:

(1) estimated monthly gasoline tax liability for the current year; or

(2) average monthly gasoline tax liability for the preceding year; exceeds ten thousand dollars (\$10,000), the distributor shall pay the monthly gasoline taxes due by electronic fund transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

SECTION 4. IC 6-6-1.1-606.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 606.6. (a) Except as provided in subsection (c), every person included within the terms of section 606(a) of this chapter who transports gasoline in a vehicle on the highways of Indiana in a vehicle having a total tank capacity of less than eight hundred fifty (850) gallons is liable to the state for a penalty equal to the rate provided in section ~~201~~ 201.2 of this chapter on all gasoline transported into Indiana and delivered to any person other than a licensed distributor.

(b) Except as provided in subsection (c), every person included within the terms of section 606(c) of this chapter who transports gasoline in a vehicle on the highways of Indiana is liable to the state for a penalty equal to the rate provided in section ~~201~~ 201.2 of this chapter on all gasoline:

- (1) received by the person for transportation to a point outside Indiana;
- (2) not ~~in fact~~ transported to a point outside Indiana; and
- (3) ~~in fact~~ delivered to a person other than a licensed distributor inside Indiana.

(c) The following are excluded when computing any liability under this section:

- (1) All deliveries of gasoline when the tax imposed by law was charged or collected by the parties under the circumstances described in this section.
- (2) Deliveries of gasoline used in computing the tax under section 301 of this chapter."

Page 5, after line 40, begin a new paragraph and insert:

"SECTION 8. [EFFECTIVE JULY 1, 2004] (a) **The department of state revenue, before November 1, 2004, shall publish in the Indiana Register the per gallon conversion rate determined under IC 6-6-1.1-201.2, as added by this act, that is applicable for the calendar year beginning January 1, 2005.**

- 1 **(b) IC 6-6-1.1-606.6, as amended by this act, applies to gasoline**
- 2 **used after December 31, 2004.**
- 3 **(c) This SECTION expires January 1, 2006."**
- 4 Renumber all SECTIONS consecutively.
 (Reference is to HB 1446 as printed January 30, 2004.)

Representative Scholer